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REMARKS

Applicants respectfully request reconsideration of the above-identified application in view of the following remarks. Applicants request entry of this amendment because the amendment places the pending claims in condition for allowance or in better condition for appeal.

Status of Claims

Claims 1-6, 8, 10-15, 17-20, and 22-25 have been amended. Claims 1-25 are pending in this application. It is respectfully submitted that no new matter has been added.

Claim Rejections

35 U.S.C. § 102 Rejections

On Pages 2-4 of the Office Action, the Examiner rejected Claims 1-2, 4-11, and 13-24 under 35 U.S.C. § 102(e) as being anticipated by Sinivaara, et al., U.S. Publication No. 2004/0202141 ("Sinivaara"). Applicants respectfully request that the rejections of Claims 1-2, 4-11, and 13-24 under 35 U.S.C. § 102(e) be withdrawn in view of the foregoing amendments and the remarks that follow.

Amended independent Claims 1 and 23 include, *inter alia*:

- scanning a first channel from a set of channels, wherein the first channel is associated with the first access point;
- receiving a packet on the first channel;
- determining if the received packet is an informational packet;
- ending the scanning of the first channel and joining the first access point if the received packet is an informational packet;
- determining information regarding the first channel from the received packet if the received packet is not an informational packet; and
- scanning a second channel from the set of channels if said information indicates the first channel is not desirable, wherein the second channel is associated with a second access point

Amended independent Claims 8, 17, and 20 include, *inter alia*:

- scan a first channel from a set of channels, wherein the first channel is associated with a first access point;

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receive a packet on the first channel;
determine if the received packet is an informational packet and end the scan of the first channel and join the first access point if the received packet is an informational packet and determine information regarding the first channel from the received packet if the received packet is not an informational packet; and
scan a second channel from the set of channels if said information indicates the first channel is not desirable, wherein the second channel is associated with a second access point

Sinivaara teaches "The access point then compiles a service report which ... preferably includes the calculated average load level and possibly also the instantaneous load level of the access point. The service report is then transmitted (step 304) to at least one mobile terminal. The transmission can be a unicast transmission (such as a Probe Response), a broadcast transmission (in the beacon frame) or a multicast transmission." (Paragraphs [0080]-[0081]). Thus, Sinivaara teaches that a service report may be broadcast as part of an informational packet (such as a Probe Response or beacon frame).

Sinivaara further teaches that "When a mobile terminal enters a network or is turned on in the network, it starts to scan through the channels ... (step 400) ... In this way, the terminal receives the service reports from each of the access points available at the current location of the terminal. The terminal forms a set of the available access points and their respective attributes (step 401) and starts the process of selecting the best available access point." (Paragraph [0082]). Thus, Sinivaara teaches that the terminal scans through all of the channels to receive a service report from each access point. The terminal uses the service reports from each access point to determine which access point is the best and then attempts to join that access point.

In contrast, Applicants claim "end[ing] the scan[ning] of the first channel and join[ing] the first access point if the received packet is an informational packet". Thus, Applicants claim that the scanning of the first channel is ended and the first access point is joined if the received packet on the first channel is an informational packet. Applicants only claim "scan[ning] a second channel from the set of channels" if "the received packet is not an informational packet" and if "information regarding the first channel from the received packet ... indicates the first channel is not desirable". Sinivaara instead teaches

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that every channel should be scanned so that informational packets having service reports can be received from every access point. Thereby, the service reports from every access point can be compared so that a best access point can be identified and joined.

Each of Claims 2, 4-7, 9-11, 13-16, 18-19, 21-22, and 24 depends from one of amended independent Claims 1, 8, 17, 20 and 23 and therefore includes all the features of one of these independent claims as well as further distinguishing features. Thus, Claims 2, 4-7, 9-11, 13-16, 18-19, 21-22, and 24 are likewise allowable. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of Claims 1-2, 4-11, and 13-24 under 35 U.S.C. § 102(e) as being anticipated by Sinivaara.

35 U.S.C. § 103 Rejections

On Pages 4-5 of the Office Action, the Examiner rejected Claims 3, 12, and 25 under as being under 35 U.S.C. § 103(a) as being unpatentable over Sinivaara in view of Barber, et al., U.S. Publication No. 2005/0073979 ("Barber"). Applicants respectfully request the withdrawal of the rejection of Claims 3, 12, and 25 under 35 U.S.C. § 103(a) in view of the foregoing amendments and the remarks that follow.

It is respectfully submitted that the addition of the teachings of Barber do not cure the deficiencies of Sinivaara which have been expressed above regarding amended independent Claims 1, 8, and 23.

Each of Claims 3, 12, and 25 depends from one of amended independent Claims 1, 8, and 23 and therefore includes all the features of one of these independent claims as well as further distinguishing features. Thus, Claims 3, 12, and 25 are likewise allowable. Therefore, Applicants respectfully request that the Examiner withdraw the rejection of Claims 3, 12, and 25 under 35 U.S.C. § 103(a) as being unpatentable over Sinivaara in view of Barber.

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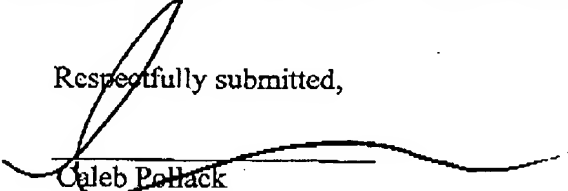
CONCLUSION

In view of the foregoing amendments and remarks, Applicants submit that the pending claims distinguish over the prior art of record and are in condition for allowance. Favorable consideration and passage to issue are therefore respectfully requested.

The Examiner is invited to telephone the undersigned to discuss any still outstanding matters with respect to the present application.

Except for the fee for the Request for Continued Examination, being paid separately, no fees are believed to be due in connection with this paper. However if any such fees are due, please charge any fees associated with this paper to deposit account No. 50-3355.

Respectfully submitted,


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